

REMARKS

The Pending Claims:

Before entry of the preceding amendments, Claims 12, 2, and 56-66 are pending in this application. Claims 12-30, and 56-66 are directed to a method of treating irritable bowel syndrome, fibromyalgia, chronic fatigue syndrome, depression, attention deficit/hyperactivity disorder, an autoimmune disease, or Crohn's disease.

Examiner's Requirement of a Further Election of Species and Subspecies and Applicant's Response

1. The Examiner stated that Claim 24 is generic to a plurality of disclosed patentably distinct species comprising structurally different prokinetic agents and required further election of a single species, under 35 U.S.C. § 121.

Applicant asserts that Claim 23 is generic for increasing the human subject's phase III interdigestive motility by the administering to the human subject a chemical prokinetic agent, but further elects as a species of prokinetic agent recited in Claim 24:

A macrolide compound (also known as a "motilide" compound).

Applicant's election is made with a complete reservation of all rights under 35 U.S.C. § 121. The Examiner noted that upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species.

2. The Examiner further required Applicant to make an election of a subspecies from Claim 25 or Claim 26, consonant with Applicant's choice of species in Claim 24.

Accordingly, Applicant elects in Claim 25 the macrolide compound:

erythromycin.

Applicant's election is made with a complete reservation of all rights under 35 U.S.C. § 121.

3. The Examiner stated that Claim 58 is generic to a plurality of disclosed patentably distinct species comprising structurally different agents that modify afferent neural feedback or sensory perception and required further election of a single species, under 35 U.S.C. § 121.

Applicant asserts that Claim 57 is generic for alleviating or improving the hyperalgesia related to SIBO by administering an agent that modifies afferent neural feedback or sensory perception, but further elects as a species of such agent recited in Claim 58:

a 5-HT receptor antagonist.

Applicant's election is made with a complete reservation of all rights under 35 U.S.C. § 121. The Examiner noted that upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species.

4. The Examiner further required Applicant to make an election of a subspecies from among Claims 59-66, consonant with Applicant's choice of species in Claim 58. Accordingly, Applicant elects in Claim 61 the 5-HT receptor antagonist:

alosetron.

Applicant's election is made with a complete reservation of all rights
under 35 U.S.C. § 121.

Respectfully submitted,

By: 

Nisan A. Steinberg, Ph.D.
Reg. No. 40,345

SIDLEY AUSTIN BROWN & WOOD
555 West Fifth Street, Suite 4000
Los Angeles, California 90013
Ofc: 213/ 896-6665
Fax: 213/ 896-6600